IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Shivdutt Vs. State of Rajasthan & Ors.

S.B.CR.MISC. PETITION NO.152/2001

DATE OF ORDER :: December 11, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.S.G.Ojha, for the petitioner.
Mr.J.P.S.Choudhary, P.P.
Mr.Sandeep Mehta, for non-petitioner No.2
Mr.S.L.Jain, for non-petitioner No.1.

BY THE COURT:

This criminal misc. petition under section 482 Cr.P.C. is directed aginst the order dt. 16.2.2001 passed by the Additional Chief Judicial Magistrate, Rajgarh, Distt. Churu (for short 'the trial court' hereinafter), in criminal misc. case No.44/2001, whereby the trial court allowed the application filed by the non-petitioner No.2 under section 451 and 457 Cr.P.C. and directed to release the tractor bearing regisration No.HYD-830 in favour of non-petitioner No.2 Rohatash on "Supurdagimana" on certain terms and conditions imposed in the order impugned.

I have heard learned counsel for the parties. Carefully gone through the order of the trial court.

Mr.Sandeep Mehta, counsel appearing for non-petitioner No.2 submits that a criminal case was instituted on a report lodged by the petitioner which was investigated by the police and after investigation, the police filed the challan before the trial court. The trial court took the cognizance of the offences and thereafter framed the charges for certain offences. The order framing charge dt. 4.6.2003 passed by the trial court in criminal original case No.368/2000 came to be challenged before this Court by way of a criminal revision being S.B.Cr.Revision Petition No.600/2003. By order dt. 11.12.2003, the revision petition filed by the petitioner Rohatash therein, who is non-petitioner herein was allowed and the order framing charge was set aside and quashed and he was discharged. According to the learned counsel it is complainant, who sold the tractor in question on 10.4.1996 to non-petitioner No.2 Rohatash for a sum of Rs.1,32,500/- and received Rs.1,00,000/-, which has been admitted by the petitioner in his complaint as also in evidence and therefore, the non-petitioner No.2 was in lawful possession of the tractor. So far as criminal offence is concerned, he has been discharged by order of this Court dt. 11.12.2003.

Having regard to the facts and circumstances of the case, in my view, the trial court was justified in giving the tractor on interim custody to the non-petitioner on "Supurdaginama" and, therefore, no case for interference in the inherent jurisdiction is made out.

The petition is, therefore, dismissed.

[H.R.PANWAR],J.

m.asif/-